

1988—Par. (4)(D). Pub. L. 100-449 added subpar. (D).
 1985—Par. (4)(C). Pub. L. 99-47 added subpar. (C).

**EFFECTIVE AND TERMINATION DATES OF 2007
 AMENDMENT**

Amendment by Pub. L. 110-138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110-138, set out in a note under section 3805 of this title.

**EFFECTIVE AND TERMINATION DATES OF 2006
 AMENDMENT**

Amendment by Pub. L. 109-283 effective on the date on which the United States-Oman Free Trade Agreement enters into force (Jan. 1, 2009) and to cease to be effective on the date on which the Agreement terminates, see section 107(a), (c) of Pub. L. 109-283, set out in a note under section 3805 of this title.

Amendment by Pub. L. 109-169 effective on the date on which the United States-Bahrain Free Trade Agreement enters into force (Aug. 1, 2006) and to cease to be effective on the date on which the Agreement terminates, see section 106(a), (c) of Pub. L. 109-169, set out in a note under section 3805 of this title.

**EFFECTIVE AND TERMINATION DATES OF 2005
 AMENDMENT**

Amendment by Pub. L. 109-53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA-DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109-53, set out as an Effective and Termination Dates note under section 4001 of this title.

**EFFECTIVE AND TERMINATION DATES OF 2004
 AMENDMENT**

Amendment by Pub. L. 108-286 effective on the date on which the United States-Australia Free Trade Agreement enters into force (Jan. 1, 2005) and to cease to be effective on the date on which the Agreement terminates, see section 106(a), (c) of Pub. L. 108-286, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the Agreement on Government Procurement, referred to in section 3511(d)(17) of this title, enters into force with respect to the United States (Jan. 1, 1995), see section 344(a) of Pub. L. 103-465, set out as a note under section 2512 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States (Jan. 1, 1994), see section 381(e) of Pub. L. 103-182, set out as a note under section 2511 of this title.

**EFFECTIVE AND TERMINATION DATES OF 1988
 AMENDMENT**

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security,

and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**SUBCHAPTER II—TECHNICAL BARRIERS TO
 TRADE (STANDARDS)**

PART A—OBLIGATIONS OF THE UNITED STATES

§ 2531. Certain standards-related activities

(a) No bar to engaging in standards activity

Nothing in this subchapter may be construed—

(1) to prohibit a Federal agency from engaging in activity related to standards-related measures, including any such measure relating to safety, the protection of human, animal, or plant life or health, the environment, or consumers; or

(2) to limit the authority of a Federal agency to determine the level it considers appropriate of safety or of protection of human, animal, or plant life or health, the environment, or consumers.

(b) Unnecessary obstacles

Nothing in this subchapter may be construed as prohibiting any private person, Federal agency, or State agency from engaging in standards-related activities that do not create unnecessary obstacles to the foreign commerce of the United States. No standards-related activity of any private person, Federal agency, or State agency shall be deemed to constitute an unnecessary obstacle to the foreign commerce of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective including, but not limited to, the protection of legitimate health or safety, essential security, environmental, or consumer interests and if such activity does not operate to exclude imported products which fully meet the objectives of such activity.

(Pub. L. 96-39, title IV, §401, July 26, 1979, 93 Stat. 242; Pub. L. 103-465, title III, §351(b), Dec. 8, 1994, 108 Stat. 4955.)

AMENDMENTS

1994—Pub. L. 103-465 added subsec. (a), designated existing provisions as subsec. (b), and inserted subsec. (b) heading.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 352 of title III of Pub. L. 103-465 provided that: “This subtitle [subtitle F (§§351, 352) of title III of Pub. L. 103-465, amending this section and sections 2532, 2544, 2571, and 2573 of this title and repealing provisions set out below] and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995].”

EFFECTIVE DATE

Section 454 of Pub. L. 96-39, which provided that this subchapter was to take effect on Jan. 1, 1980, if the Agreement on Technical Barriers to Trade entered into force with respect to the United States by that date, was repealed by Pub. L. 103-465, title III, §351(g), Dec. 8, 1994, 108 Stat. 4957.

§ 2532. Federal standards-related activities

No Federal agency may engage in any standards-related activity that creates unnecessary

obstacles to the foreign commerce of the United States, including, but not limited to, standards-related activities that violate any of the following requirements:

(1) Nondiscriminatory treatment

Each Federal agency shall ensure, in applying standards-related activities with respect to any imported product, that such product is treated no less favorably than are like domestic or imported products, including, but not limited to, when applying tests or test methods, no less favorable treatment with respect to—

(A) the acceptance of the product for testing in comparable situations;

(B) the administration of the tests in comparable situations;

(C) the fees charged for tests;

(D) the release of test results to the exporter, importer, or agents;

(E) the siting of testing facilities and the selection of samples for testing; and

(F) the treatment of confidential information pertaining to the product.

(2) Use of international standards

(A) In general

Except as provided in subparagraph (B)(ii), each Federal agency, in developing standards, shall take into consideration international standards and shall, if appropriate, base the standards on international standards.

(B) Application of requirement

For purposes of this paragraph, the following apply:

(i) International standards not appropriate

The reasons for which the basing of a standard on an international standard may not be appropriate include, but are not limited to, the following:

(I) National security requirements.

(II) The prevention of deceptive practices.

(III) The protection of human health or safety, animal or plant life or health, or the environment.

(IV) Fundamental climatic or other geographical factors.

(V) Fundamental technological problems.

(ii) Regional standards

In developing standards, a Federal agency may, but is not required to, take into consideration any international standard promulgated by an international standards organization the membership of which is described in section 2571(6)(A)(ii)¹ of this title.

(3) Performance criteria

Each Federal agency shall, if appropriate, develop standards based on performance criteria, such as those relating to the intended use of a product and the level of performance that the product must achieve under defined conditions, rather than on design criteria,

such as those relating to the physical form of the product or the types of material of which the product is made.

(4) Access for foreign suppliers

Each Federal agency shall, with respect to any conformity assessment procedure used by it, permit access for obtaining an assessment of conformity and the mark of the system, if any, to foreign suppliers of a product on the same basis as access is permitted to suppliers of like products, whether of domestic or other foreign origin.

(Pub. L. 96-39, title IV, § 402, July 26, 1979, 93 Stat. 242; Pub. L. 103-465, title III, § 351(c), Dec. 8, 1994, 108 Stat. 4956; Pub. L. 104-295, § 20(c)(14), Oct. 11, 1996, 110 Stat. 3529.)

REFERENCES IN TEXT

Section 2571(6)(A) of this title, referred to in par. (2)(B)(ii), was amended generally by Pub. L. 103-465, title III, § 351(e)(4), Dec. 8, 1994, 108 Stat. 4956, and, as so amended, no longer contains clauses.

AMENDMENTS

1996—Par. (4). Pub. L. 104-295 inserted comma after “system, if any”.

1994—Par. (4). Pub. L. 103-465 substituted “Access” for “Certification access” in heading, and, in text, substituted “conformity assessment procedure” for “certification system” and “an assessment of conformity and the mark of the system, if any” for “certification under that system”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 352 of Pub. L. 103-465, set out as a note under section 2531 of this title.

§ 2533. State and private standards-related activities

(a) In general

It is the sense of the Congress that no State agency and no private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States.

(b) Presidential action

The President shall take such reasonable measures as may be available to promote the observance by State agencies and private persons, in carrying out standards-related activities, of requirements equivalent to those imposed on Federal agencies under section 2532 of this title, and of procedures that provide for notification, participation, and publication with respect to such activities.

(Pub. L. 96-39, title IV, § 403, July 26, 1979, 93 Stat. 243.)

PART B—FUNCTIONS OF FEDERAL AGENCIES

§ 2541. Functions of Trade Representative

(a) In general

The Trade Representative shall coordinate the consideration of international trade policy issues that arise as a result of, and shall develop international trade policy as it relates to, the implementation of this subchapter.

¹ See References in Text note below.

(b) Negotiating functions

The Trade Representative has responsibility for coordinating United States discussions and negotiations with foreign countries for the purpose of establishing mutual arrangements with respect to standards-related activities. In carrying out this responsibility, the Trade Representative shall inform and consult with any Federal agency having expertise in the matters under discussion and negotiation.

(c) Cross reference

For provisions of law regarding general authority of the Trade Representative with respect to trade agreements, see section 2171 of this title.

(Pub. L. 96-39, title IV, § 411, July 26, 1979, 93 Stat. 243; Pub. L. 103-182, title III, § 351(b)(2), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), (2), Oct. 11, 1996, 110 Stat. 3529, 3530.)

AMENDMENTS

1996—Pub. L. 104-295, § 21(b)(1), amended directory language of Pub. L. 103-182, § 351(b)(2). See 1993 Amendment notes below.

Subsec. (c). Pub. L. 104-295, § 21(b)(2), substituted “Trade Representative” for “Special Representatives”.

1993—Pub. L. 103-182, § 351(b)(2)(B), as amended by Pub. L. 104-295, § 21(b)(1), substituted “Trade Representative” for “Special Representative” in section catchline.

Subsecs. (a), (b). Pub. L. 103-182, § 351(b)(2)(A), as amended by Pub. L. 104-295, § 21(b)(1), substituted “Trade Representative” for “Special Representative” wherever appearing.

§ 2542. Establishment and operation of technical offices**(a) Establishment****(1) For nonagricultural products**

The Secretary of Commerce shall establish and maintain within the Department of Commerce a technical office that shall carry out the functions prescribed under subsection (b) of this section with respect to nonagricultural products.

(2) For agricultural products

The Secretary of Agriculture shall establish and maintain within the Department of Agriculture a technical office that shall carry out the functions prescribed under subsection (b) of this section with respect to agricultural products.

(b) Functions of offices

The President shall prescribe for each technical office established under subsection (a) of this section such functions as the President deems necessary or appropriate to implement this subchapter.

(Pub. L. 96-39, title IV, § 412, July 26, 1979, 93 Stat. 244.)

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Secretary of Commerce regarding technical office established under subsec. (a)(1) of this section, and to Secretary of Agriculture regarding technical office established under subsec. (a)(2) of this section, see section 1-103(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 990, set out as a note under section 2171 of this title.

§ 2543. Representation of United States interests before international standards organizations**(a) Oversight and consultation**

The Secretary concerned shall—

(1) inform, and consult and coordinate with, the Trade Representative with respect to international standards-related activities identified under paragraph (2);

(2) keep adequately informed regarding international standards-related activities and identify those that may substantially affect the commerce of the United States; and

(3) carry out such functions as are required under subsections (b) and (c) of this section.

(b) Representation of United States interests by private persons**(1) Definitions**

For purposes of this subsection—

(A) Organization member

The term “organization member” means the private person who holds membership in a private international standards organization.

(B) Private international standards organization

The term “private international standards organization” means any international standards organization before which the interests of the United States are represented by a private person who is officially recognized by that organization for such purpose.

(2) In general

Except as otherwise provided for in this subsection, the representation of United States interests before any private international standards organization shall be carried out by the organization member.

(3) Inadequate representation

If the Secretary concerned, after inquiry instituted on his own motion or at the request of any private person, Federal agency, or State agency having an interest therein, has reason to believe that the participation by the organization member in the proceedings of a private international standards organization will not result in the adequate representation of United States interests that are, or may be, affected by the activities of such organization (particularly with regard to the potential impact of any such activity on the international trade of the United States), the Secretary concerned shall immediately notify the organization member concerned. During any such inquiry, the Secretary concerned may solicit and consider the advice of the appropriate representatives referred to in section 2547 of this title.

(4) Action by organization member

If within the 90-day period after the date on which notification is received under paragraph (3) (or such shorter period as the Secretary concerned determines to be necessary in extraordinary circumstances), the organization member demonstrates to the Secretary concerned its willingness and ability to represent adequately United States interests before the

private international standards organization, the Secretary concerned shall take no further action under this subsection.

(5) Action by Secretary concerned

If—

(A) within the appropriate period referred to in paragraph (4), the organization member does not respond to the Secretary concerned with respect to the notification, or does respond but does not demonstrate to the Secretary concerned the requisite willingness and ability to represent adequately United States interests; or

(B) there is no organization member of the private international standards organization;

the Secretary concerned shall make appropriate arrangements to provide for the adequate representation of United States interests. In cases where subparagraph (A) applies, such provision shall be made by the Secretary concerned through the appropriate organization member if the private international standards organization involved requires representation by that member.

(c) Representation of United States interests by Federal agencies

With respect to any international standards organization before which the interests of the United States are represented by one or more Federal agencies that are officially recognized by that organization for such purpose, the Secretary concerned shall—

(1) encourage cooperation among interested Federal agencies with a view toward facilitating the development of a uniform position with respect to the technical activities with which the organization is concerned;

(2) encourage such Federal agencies to seek information from, and to cooperate with, the affected domestic interests when undertaking such representation; and

(3) not preempt the responsibilities of any Federal agency that has jurisdiction with respect to the activities undertaken by such organization, unless requested to do so by such agency.

(Pub. L. 96-39, title IV, § 413, July 26, 1979, 93 Stat. 244; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Subsec. (a)(1). Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative”.

§ 2544. Standards information center

(a) Establishment

The Secretary of Commerce shall maintain within the Department of Commerce a standards information center.

(b) Functions

The standards information center shall—

(1) serve as the central national collection facility for information relating to (A) stand-

ards, technical regulations, conformity assessment procedures, and standards-related activities, whether such standards, technical regulations, conformity assessment procedures, or activities are public or private, domestic or foreign, or international, regional, national, or local and (B) the membership and participation of Federal, State, or local government bodies or private bodies in the United States in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements concerning standards-related activities;

(2) make available to the public at such reasonable fee as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) other than information to which paragraph (3) applies;

(3) use its best efforts to make available to the public, at such reasonable fees as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) that is of private origin, on a cooperative basis with the private individual or entity, foreign or domestic, who holds the copyright on the information;

(4) in case of such information that is of foreign origin, provide, at such reasonable fee as the Secretary shall prescribe, such translation services as may be necessary;

(5) serve as the inquiry point for requests for information regarding standards-related activities, whether adopted or proposed, within the United States, except that in carrying out this paragraph, the Secretary of Commerce shall refer all inquiries regarding agricultural products to the technical office established under section 2542(a)(2) of this title within the Department of Agriculture; and

(6) provide such other services as may be appropriate, including but not limited to, such services to the technical offices established under section 2542 of this title as may be requested by those offices in carrying out their functions.

(c) Sanitary and phytosanitary measures

(1) Public information

The standards information center shall, in addition to the functions specified under subsection (b) of this section, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

(A) any sanitary or phytosanitary measure of general application, including any inspection procedure or approval procedure proposed, adopted, or maintained by a Federal agency or agency of a State or local government;

(B) the procedures of a Federal agency or an agency of a State or local government for risk assessment and factors the agency considers in conducting the assessment;

(C) the determination of the levels of protection that a Federal agency or an agency of a State or local government considers appropriate; and

(D) the membership and participation of the Federal Government and State and local governments in international and regional

sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements.

(2) Definitions

The definitions in section 2575b of this title apply for purposes of this subsection.

(Pub. L. 96-39, title IV, §414, July 26, 1979, 93 Stat. 245; Pub. L. 103-465, title III, §351(d), title IV, §431(a), Dec. 8, 1994, 108 Stat. 4956, 4966; Pub. L. 104-295, §20(c)(15), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104-295 struck out comma after “procedures,” in two places.

1994—Subsec. (b)(1). Pub. L. 103-465, §351(d), inserted “(A)” after “relating to”, substituted “technical regulations, conformity assessment procedures,” for “certification systems” and “such standards, technical regulations, conformity assessment procedures,” for “such standards, systems”, and inserted “and” and cl. (B) before semicolon at end.

Subsec. (c). Pub. L. 103-465, §431(a), added subsec. (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 351(d) of Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 352 of Pub. L. 103-465, set out as a note under section 2531 of this title.

Amendment by section 431(a) of Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995], except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of this title.

§ 2545. Contracts and grants

(a) In general

For purposes of carrying out this subchapter, and otherwise encouraging compliance with the Agreement, the Trade Representative and the Secretary concerned may each, with respect to functions for which responsible under this subchapter, make grants to, or enter into contracts with, any other Federal agency, any State agency, or any private person, to assist such agency or person to implement appropriate programs and activities, including, but not limited to, programs and activities—

- (1) to increase awareness of proposed and adopted standards-related activities;
- (2) to facilitate international trade through the appropriate international and domestic standards-related activities;
- (3) to provide, if appropriate, and pursuant to section 2543 of this title, adequate United States representation in international standards-related activities; and
- (4) to encourage United States exports through increased awareness of foreign standards-related activities that may affect United States exports.

No contract entered into under this section shall be effective except to such extent, and in such amount, as is provided in advance in appropriation Acts.

(b) Terms and conditions

Any contract entered into, or any grant made, under subsection (a) of this section shall be sub-

ject to such terms and conditions as the Trade Representative or Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States.

(c) Limitations

Financial assistance extended under this section shall not exceed 75 percent of the total costs (as established by the Trade Representative or Secretary concerned, as the case may be) of the program or activity for which assistance is made available. The non-Federal share of such costs shall be made in cash or kind, consistent with the maintenance of the program or activity concerned.

(d) Audit

Each recipient of a grant or contract under this section shall make available to the Trade Representative or the Secretary concerned, as the case may be, and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under such grant or contract.

(Pub. L. 96-39, title IV, §415, July 26, 1979, 93 Stat. 246; Pub. L. 103-182, title III, §351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, §21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative” wherever appearing.

§ 2546. Technical assistance

The Trade Representative and the Secretary concerned may each, with respect to functions for which responsible under this subchapter, make available, on a reimbursable basis or otherwise, to any other Federal agency, State agency, or private person such assistance, including, but not limited to, employees, services, and facilities, as may be appropriate to assist such agency or person in carrying out standards-related activities in a manner consistent with this subchapter.

(Pub. L. 96-39, title IV, §416, July 26, 1979, 93 Stat. 247; Pub. L. 103-182, title III, §351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, §21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative”.

§ 2547. Consultations with representatives of domestic interests

In carrying out the functions for which responsible under this subchapter, the Trade Representative and the Secretary concerned shall solicit technical and policy advice from the committees, established under section 2155 of this title, that represent the interests concerned, and may solicit advice from appropriate State agencies and private persons.

(Pub. L. 96-39, title IV, § 417, July 26, 1979, 93 Stat. 247; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative”.

PART C—ADMINISTRATIVE AND JUDICIAL PROCEEDINGS REGARDING STANDARDS-RELATED ACTIVITIES

SUBPART 1—REPRESENTATIONS ALLEGING UNITED STATES VIOLATIONS OF OBLIGATIONS

§ 2551. Right of action

Except as provided under this subpart, the provisions of this part do not create any right of action under the laws of the United States with respect to allegations that any standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement.

(Pub. L. 96-39, title IV, § 421, July 26, 1979, 93 Stat. 247.)

§ 2552. Representations

Any—

(1) Party to the Agreement; or

(2) foreign country that is not a Party to the Agreement but is found by the Trade Representative to extend rights and privileges to the United States that are substantially the same as those that would be so extended if that foreign country were a Party to the Agreement;

may make a representation to the Trade Representative alleging that a standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement. Any such representation must be made in accordance with procedures that the Trade Representative shall by regulation prescribe and must provide a reasonable indication that the standards-related activity concerned is having a significant trade effect. No person other than a Party to the Agreement or a foreign country described in paragraph (2) may make such a representation.

(Pub. L. 96-39, title IV, § 422, July 26, 1979, 93 Stat. 247; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative” wherever appearing.

§ 2553. Action after receipt of representations

(a) Review

Upon receipt of any representation made under section 2552 of this title, the Trade Representative shall review the issues concerned in consultation with—

(1) the agency or person alleged to be engaging in violations under the Agreement;

(2) the member agencies of the interagency trade organization established under section 1872(a) of this title;

(3) other appropriate Federal agencies; and

(4) appropriate representatives referred to in section 2547 of this title.

(b) Resolution

The Trade Representative shall undertake to resolve, on a mutually satisfactory basis, the issues set forth in the representation through consultation with the parties concerned.

(Pub. L. 96-39, title IV, § 423, July 26, 1979, 93 Stat. 247; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative” wherever appearing.

§ 2554. Procedure after finding by international forum

(a) In general

If an appropriate international forum finds that a standards-related activity being engaged in within the United States conflicts with the obligations of the United States under the Agreement, the interagency trade organization established under section 1872(a) of this title shall review the finding and the matters related thereto with a view to recommending appropriate action.

(b) Cross reference

For provisions of law regarding remedies available to domestic persons alleging that standards activities engaged in by Parties to the Agreement (other than the United States) violate the obligations of the Agreement, see section 2411 of this title.

(Pub. L. 96-39, title IV, § 424, July 26, 1979, 93 Stat. 248.)

SUBPART 2—OTHER PROCEEDINGS REGARDING CERTAIN STANDARDS-RELATED ACTIVITIES

§ 2561. Findings of reciprocity required in administrative proceedings

(a) In general

Except as provided under subpart 1, no Federal agency may consider a complaint or petition against any standards-related activity regarding an imported product, if that activity is engaged in within the United States and is covered by the Agreement, unless the Trade Representative finds, and informs the agency concerned in writing, that—

(1) the country of origin of the imported product is a Party to the Agreement or a foreign country described in section 2552(2) of this title; and

(2) the dispute settlement procedures provided under the Agreement are not appropriate.

(b) Exemptions

This section does not apply with respect to causes of action arising under—

- (1) the antitrust laws as defined in section 12(a) of title 15; or
- (2) statutes administered by the Secretary of Agriculture.

This section does not apply with respect to petitions and proceedings that are provided for under the practices of any Federal agency for the purpose of ensuring, in accordance with section 553 of title 5, that interested persons are given an opportunity to participate in agency rulemaking or to seek the issuance, amendment, or repeal of a rule.

(Pub. L. 96-39, title IV, § 441, July 26, 1979, 93 Stat. 248; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.
1993—Subsec. (a). Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative”.

§ 2562. Consideration of standards-related activities by an international forum

No standards-related activity being engaged in within the United States may be stayed in any judicial or administrative proceeding on the basis that such activity is currently being considered, pursuant to the Agreement, by an international forum.

(Pub. L. 96-39, title IV, § 442, July 26, 1979, 93 Stat. 248.)

PART D—DEFINITIONS AND MISCELLANEOUS PROVISIONS

§ 2571. Definitions

As used in this subchapter—

(1) Agreement

The term “Agreement” means the Agreement on Technical Barriers to Trade referred to in section 3511(d)(5) of this title.

(2) Conformity assessment procedure

The term “conformity assessment procedure” means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

(3) Federal agency

The term “Federal agency” means any of the following within the meaning of chapter 2 of part I of title 5:

- (A) Any executive department.
- (B) Any military department.
- (C) Any Government corporation.
- (D) Any Government-controlled corporation.
- (E) Any independent establishment.

(4) International conformity assessment procedure

The term “international conformity assessment procedure” means a conformity assessment procedure that is adopted by an international standards organization.

(5) International standard

The term “international standard” means any standard that is promulgated by an international standards organization.

(6) International standards organization

The term “international standards organization” means any organization—

- (A) the membership of which is open to representatives, whether public or private, of the United States and at least all Members; and
- (B) that is engaged in international standards-related activities.

(7) International standards-related activity

The term “international standards-related activity” means the negotiation, development, or promulgation of, or any amendment or change to, an international standard, or an international conformity assessment procedure, or both.

(8) Member

The term “Member” means a WTO member as defined in section 3501(10) of this title.

(9) Private person

The term “private person” means—

- (A) any individual who is a citizen or national of the United States; and
- (B) any corporation, partnership, association, or other legal entity organized or existing under the law of any State, whether for profit or not for profit.

(10) Product

The term “product” means any natural or manufactured item.

(11) Secretary concerned

The term “Secretary concerned” means the Secretary of Commerce with respect to functions under this subchapter relating to non-agricultural products, and the Secretary of Agriculture with respect to functions under this subchapter relating to agricultural products.

(12) Trade Representative

The term “Trade Representative” means the United States Trade Representative.

(13) Standard

The term “standard” means a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines, or characteristics for products or related processes and production methods, with which compliance is not mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

(14) Standards-related activity

The term “standards-related activity” means the development, adoption, or application of any standard, technical regulation, or conformity assessment procedure.

(15) State

The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and any other Commonwealth, territory, or possession of the United States.

(16) State agency

The term “State agency” means any department, agency, or other instrumentality of the

government of any State or of any political subdivision of any State.

(17) Technical regulation

The term “technical regulation” means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.

(18) United States

The term “United States”, when used in a geographical context, means all States.

(Pub. L. 96-39, title IV, § 451, July 26, 1979, 93 Stat. 249; Pub. L. 103-182, title III, § 351(b)(1), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 103-465, title III, § 351(e), Dec. 8, 1994, 108 Stat. 4956; Pub. L. 104-295, § 20(c)(16), Oct. 11, 1996, 110 Stat. 3529.)

REFERENCES IN TEXT

Chapter 2 of part I of title 5, referred to in par. (3), probably means chapter 1 of part I of title 5, which is classified to section 101 et seq. of Title 5, Government Organization and Employees, and which relates to organization of agencies.

AMENDMENTS

1996—Par. (6)(A). Pub. L. 104-295 substituted “; and” for period at end.

1994—Par. (1). Pub. L. 103-465, § 351(e)(1), amended par. (1) generally, substituting “referred to in section 3511(d)(5) of this title” for “approved under section 2503(a) of this title”.

Par. (2). Pub. L. 103-465, § 351(e)(2), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “The term ‘certification system’ means a system—

“(A) for determining whether a product conforms with product standards applicable to that product; and

“(B) if a product so conforms, for attesting, by means of a document, mark, or other appropriate evidence of conformity, to that conformity. Such term also includes any modification of, or change to, any such system.”

Par. (4). Pub. L. 103-465, § 351(e)(3), substituted “conformity assessment procedure” for “certification system” in two places.

Par. (6)(A). Pub. L. 103-465, § 351(e)(4), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the membership of which is open to representatives, whether public or private, of the United States and—

“(i) all Parties to the Agreement, or

“(ii) some but not all Parties of the Agreement; and”.

Par. (7). Pub. L. 103-465, § 351(e)(5), substituted “conformity assessment procedure” for “certification system”.

Par. (8). Pub. L. 103-465, § 351(e)(6), amended heading and text of par. (8) generally. Prior to amendment, text read as follows: “The term ‘Party to the Agreement’ means any foreign country or instrumentality determined by the President to have assumed, and to be applying, the obligations of the Agreement with respect to the United States.”

Par. (13). Pub. L. 103-465, § 351(e)(7), amended heading and text of par. (13) generally. Prior to amendment, text read as follows: “The term ‘standard’ means any of the following, and any amendment or change to any of the following:

“(A) The specification of the characteristics of a product, including, but not limited to, levels of quality, performance, safety, or dimensions.

“(B) Specifications relating to the terminology, symbols, testing and test methods, packaging, or marking or labeling requirements applicable to a product.

“(C) Administrative procedures related to the application of any specification referred to in paragraph (A) or (B).”

Par. (14). Pub. L. 103-465, § 351(e)(8), substituted “, technical regulation, or conformity assessment procedure” for “or any certification system”.

Pars. (17), (18). Pub. L. 103-465, § 351(e)(9), added par. (17) and redesignated former par. (17) as (18).

1993—Par. (12). Pub. L. 103-182 amended par. (12) generally. Prior to amendment, par. (12) read as follows:

“(12) SPECIAL REPRESENTATIVE.—The term ‘Special Representative’ means the Special Representative for Trade Negotiations.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 352 of Pub. L. 103-465, set out as a note under section 2531 of this title.

§ 2572. Exemptions

This subchapter does not apply to—

(1) any standards activity engaged in by any Federal agency or State agency for the use (including, but not limited to, use with respect to research and development, production, or consumption) of that agency or the use of another such agency; or

(2) any standards activity engaged in by any private person solely for use in the production or consumption of products by that person.

(Pub. L. 96-39, title IV, § 452, July 26, 1979, 93 Stat. 250.)

§ 2573. Reports to Congress on operation of agreement

As soon as practicable after the close of the 3-year period beginning on the date on which this subchapter takes effect, and as soon as practicable after the close of each succeeding 3-year period through 2001, the Trade Representative shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement, both domestically and internationally, during the period.

(Pub. L. 96-39, title IV, § 453, July 26, 1979, 93 Stat. 250; Pub. L. 103-182, title III, § 351(b)(2)(A), Dec. 8, 1993, 107 Stat. 2122; Pub. L. 103-465, title III, § 351(f), Dec. 8, 1994, 108 Stat. 4957; Pub. L. 104-295, § 21(b)(1), Oct. 11, 1996, 110 Stat. 3529.)

AMENDMENTS

1996—Pub. L. 104-295 amended directory language of Pub. L. 103-182. See 1993 Amendment note below.

1994—Pub. L. 103-465 inserted “through 2001” after “succeeding 3-year period”.

1993—Pub. L. 103-182, as amended by Pub. L. 104-295, substituted “Trade Representative” for “Special Representative”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 352 of Pub. L. 103-465, set out as a note under section 2531 of this title.

PART E—STANDARDS AND MEASURES UNDER THE
NORTH AMERICAN FREE TRADE AGREEMENT

SUBPART 1—SANITARY AND PHYTOSANITARY
MEASURES

§ 2575. General

Nothing in this subpart may be construed—

- (1) to prohibit a Federal agency or State agency from engaging in activity related to sanitary or phytosanitary measures to protect human, animal, or plant life or health; or
- (2) to limit the authority of a Federal agency or State agency to determine the level of protection of human, animal, or plant life or health the agency considers appropriate.

(Pub. L. 96-39, title IV, §461, as added Pub. L. 103-182, title III, §351(a), Dec. 8, 1993, 107 Stat. 2118.)

§ 2575a. Inquiry point

The standards information center maintained under section 2544 of this title shall, in addition to the functions specified therein, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

- (1) any sanitary or phytosanitary measure of general application, including any control or inspection procedure or approval procedure proposed, adopted, or maintained by a Federal or State agency;
- (2) the procedures of a Federal or State agency for risk assessment, and factors the agency considers in conducting the assessment and in establishing the levels of protection that the agency considers appropriate;
- (3) the membership and participation of the Federal Government and State governments in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements; and
- (4) the location of notices of the type required under article 719 of the NAFTA, or where the information contained in such notices can be obtained.

(Pub. L. 96-39, title IV, §462, as added Pub. L. 103-182, title III, §351(a), Dec. 8, 1993, 107 Stat. 2118.)

§ 2575b. Subpart definitions

Notwithstanding section 2571 of this title, for purposes of this subpart—

(1) Animal

The term “animal” includes fish, bees, and wild fauna.

(2) Approval procedure

The term “approval procedure” means any registration, notification, or other mandatory administrative procedure for—

- (A) approving the use of an additive for a stated purpose or under stated conditions, or
- (B) establishing a tolerance for a stated purpose or under stated conditions for a contaminant,

in a food, beverage, or feedstuff prior to permitting the use of the additive or the marketing of a food, beverage, or feedstuff containing the additive or contaminant.

(3) Contaminant

The term “contaminant” includes pesticide and veterinary drug residues and extraneous matter.

(4) Control or inspection procedure

The term “control or inspection procedure” means any procedure used, directly or indirectly, to determine that a sanitary or phytosanitary measure is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration, certification, or other procedure involving the physical examination of a good, of the packaging of a good, or of the equipment or facilities directly related to production, marketing, or use of a good, but does not mean an approval procedure.

(5) Plant

The term “plant” includes wild flora.

(6) Risk assessment

The term “risk assessment” means an evaluation of—

- (A) the potential for the introduction, establishment or spread of a pest or disease and associated biological and economic consequences; or
- (B) the potential for adverse effects on human or animal life or health arising from the presence of an additive, contaminant, toxin or disease-causing organism in a food, beverage, or feedstuff.

(7) Sanitary or phytosanitary measure

(A) In general

The term “sanitary or phytosanitary measure” means a measure to—

- (i) protect animal or plant life or health in the United States from risks arising from the introduction, establishment, or spread of a pest or disease;
- (ii) protect human or animal life or health in the United States from risks arising from the presence of an additive, contaminant, toxin, or disease-causing organism in a food, beverage, or feedstuff;
- (iii) protect human life or health in the United States from risks arising from a disease-causing organism or pest carried by an animal or plant, or a product thereof; or
- (iv) prevent or limit other damage in the United States arising from the introduction, establishment, or spread of a pest.

(B) Form

The form of a sanitary or phytosanitary measure includes—

- (i) end product criteria;
- (ii) a product-related processing or production method;
- (iii) a testing, inspection, certification, or approval procedure;
- (iv) a relevant statistical method;
- (v) a sampling procedure;

- (vi) a method of risk assessment;
- (vii) a packaging and labeling requirement directly related to food safety; and
- (viii) a quarantine treatment, such as a relevant requirement associated with the transportation of animals or plants or with material necessary for their survival during transportation.

(Pub. L. 96-39, title IV, §463, as added Pub. L. 103-182, title III, §351(a), Dec. 8, 1993, 107 Stat. 2119.)

SUBPART 2—STANDARDS-RELATED MEASURES

§ 2576. General

(a) No bar to engaging in standards activity

Nothing in this subpart shall be construed—

(1) to prohibit a Federal agency from engaging in activity related to standards-related measures, including any such measure relating to safety, the protection of human, animal, or plant life or health, the environment or consumers; or

(2) to limit the authority of a Federal agency to determine the level it considers appropriate of safety or of protection of human, animal, or plant life or health, the environment or consumers.

(b) Exclusion

This subpart does not apply to—

(1) technical specifications prepared by a Federal agency for production or consumption requirements of the agency; or

(2) sanitary or phytosanitary measures under subpart 1.

(Pub. L. 96-39, title IV, §471, as added Pub. L. 103-182, title III, §351(a), Dec. 8, 1993, 107 Stat. 2120.)

§ 2576a. Inquiry point

The standards information center maintained under section 2544 of this title shall, in addition to the functions specified therein, make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

(1) the membership and participation of the Federal Government, State governments, and relevant nongovernmental bodies in the United States in international and regional standardizing bodies and conformity assessment systems, and in bilateral and multilateral arrangements regarding standards-related measures, and the provisions of those systems and arrangements;

(2) the location of notices of the type required under article 909 of the NAFTA, or where the information contained in such notice can be obtained; and

(3) the Federal agency procedures for assessment of risk, and factors the agency considers in conducting the assessment and establishing the levels of protection that the agency considers appropriate.

(Pub. L. 96-39, title IV, §472, as added Pub. L. 103-182, title III, §351(a), Dec. 8, 1993, 107 Stat. 2120.)

§ 2576b. Subpart definitions

Notwithstanding section 2571 of this title, for purposes of this subpart—

(1) Approval procedure

The term “approval procedure” means any registration, notification, or other mandatory administrative procedure for granting permission for a good or service to be produced, marketed, or used for a stated purpose or under stated conditions.

(2) Conformity assessment procedure

The term “conformity assessment procedure” means any procedure used, directly or indirectly, to determine that a technical regulation or standard is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration, or approval used for such a purpose, but does not mean an approval procedure.

(3) Objective

The term “objective” includes—

(A) safety,

(B) protection of human, animal, or plant life or health, the environment or consumers, including matters relating to quality and identifiability of goods or services, and

(C) sustainable development,

but does not include the protection of domestic production.

(4) Service

The term “service” means a land transportation service or a telecommunications service.

(5) Standard

The term “standard” means—

(A) characteristics for a good or a service,

(B) characteristics, rules, or guidelines for—

(i) processes or production methods relating to such good, or

(ii) operating methods relating to such service, and

(C) provisions specifying terminology, symbols, packaging, marking, or labelling for—

(i) a good or its related process or production methods, or

(ii) a service or its related operating methods,

for common and repeated use, including explanatory and other related provisions set out in a document approved by a standardizing body, with which compliance is not mandatory.

(6) Standards-related measure

The term “standards-related measure” means a standard, technical regulation, or conformity assessment procedure.

(7) Technical regulation

The term “technical regulation” means—

(A) characteristics or their related processes and production methods for a good,

(B) characteristics for a service or its related operating methods, or

(C) provisions specifying terminology, symbols, packaging, marking, or labelling for—

- (i) a good or its related process or production method, or
- (ii) a service or its related operating method,

set out in a document, including applicable administrative, explanatory, and other related provisions, with which compliance is mandatory.

(8) Telecommunications service

The term “telecommunications service” means a service provided by means of the transmission and reception of signals by any electromagnetic means, but does not mean the cable, broadcast, or other electromagnetic distribution of radio or television programming to the public generally.

(Pub. L. 96-39, title IV, §473, as added Pub. L. 103-182, title III, §351(a), Dec. 8, 1993, 107 Stat. 2120.)

SUBPART 3—PART DEFINITIONS

§ 2577. Definitions

Notwithstanding section 2571 of this title, for purposes of this part—

(1) NAFTA

The term “NAFTA” means the North American Free Trade Agreement.

(2) State

The term “State” means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 96-39, title IV, §481, as added Pub. L. 103-182, title III, §351(a), Dec. 8, 1993, 107 Stat. 2122.)

PART F—INTERNATIONAL STANDARD-SETTING ACTIVITIES

§ 2578. Notice of United States participation in international standard-setting activities

(a) In general

The President shall designate an agency to be responsible for informing the public of the sanitary and phytosanitary standard-setting activities of each international standard-setting organization.

(b) Notification

Not later than June 1 of each year, the agency designated under subsection (a) of this section with respect to each international standard-setting organization shall publish notice in the Federal Register of the information specified in subsection (c) of this section with respect to that organization. The notice shall cover the period ending on June 1 of the year in which the notice is published, and beginning on the date of the preceding notice under this subsection, except that the first such notice shall cover the 1-year period ending on the date of the notice.

(c) Required information

The information to be provided in the notice under subsection (b) of this section is—

(1) the sanitary or phytosanitary standards under consideration or planned for consideration by that organization;

(2) for each sanitary or phytosanitary standard specified in paragraph (1)—

(A) a description of the consideration or planned consideration of the standard;

(B) whether the United States is participating or plans to participate in the consideration of the standard;

(C) the agenda for the United States participation, if any; and

(D) the agency responsible for representing the United States with respect to the standard.

(d) Public comment

The agency specified in subsection (c)(2)(D) of this section shall provide an opportunity for public comment with respect to the standards for which the agency is responsible and shall take the comments into account in participating in the consideration of the standards and in proposing matters to be considered by the organization.

(Pub. L. 96-39, title IV, §491, as added Pub. L. 103-465, title IV, §432, Dec. 8, 1994, 108 Stat. 4970.)

EFFECTIVE DATE

Part effective on the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995], except as otherwise provided, see section 451 of Pub. L. 103-465, set out as a note under section 3601 of this title.

DESIGNATION OF AGENCY

Secretary of Agriculture designated under this section as official responsible for informing public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization, see par. (4) of Proc. No. 6780, Mar. 23, 1995, 60 F.R. 15847, set out as a note under section 3511 of this title.

§ 2578a. Equivalence determinations

(a) In general

An agency may not determine that a sanitary or phytosanitary measure of a foreign country is equivalent to a sanitary or phytosanitary measure established under the authority of Federal law unless the agency determines that the sanitary or phytosanitary measure of the foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable sanitary or phytosanitary measure established under the authority of Federal law.

(b) FDA determination

If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a measure that is required to be promulgated as a rule under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or other statute administered by the Food and Drug Administration, the Commissioner shall issue a proposed regulation to incorporate such determination and shall include in the notice of proposed rule-making the basis for the determination that the sanitary or phytosanitary measure of a foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary meas-

ure. The Commissioner shall provide opportunity for interested persons to comment on the proposed regulation. The Commissioner shall not issue a final regulation based on the proposal without taking into account the comments received.

(c) Notice

If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a sanitary or phytosanitary measure of the Food and Drug Administration that is not required to be promulgated as a rule under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] or other statute administered by the Food and Drug Administration, the Commissioner shall publish a notice in the Federal Register that identifies the basis for the determination that the measure provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary measure. The Commissioner shall provide opportunity for interested persons to comment on the notice. The Commissioner shall not issue a final determination on the issue of equivalency without taking into account the comments received.

(Pub. L. 96-39, title IV, § 492, as added Pub. L. 103-465, title IV, § 432, Dec. 8, 1994, 108 Stat. 4971; amended Pub. L. 104-295, § 20(d)(1), Oct. 11, 1996, 110 Stat. 3529.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (b) and (c), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-295 substituted “phyto-sanitary” for “phystosanitary” before “measure of the Food and Drug Administration”.

§ 2578b. Definitions

(a) In general

As used in this part:

(1) Agency

The term “agency” means a Federal department or agency (or combination of Federal departments or agencies).

(2) Commissioner

The term “Commissioner” means the Commissioner of Food and Drugs.

(3) International standard-setting organization

The term “international standard-setting organization” means an organization consisting of representatives of 2 or more countries, the purpose of which is to negotiate, develop, promulgate, or amend an international standard.

(4) Sanitary or phytosanitary standard

The term “sanitary or phytosanitary standard” means a standard intended to form a basis for a sanitary or phytosanitary measure.

(5) International standard

The term “international standard” means a standard, guideline, or recommendation—

(A) regarding food safety, adopted by the Codex Alimentarius Commission, including a standard, guideline, or recommendation regarding decomposition elaborated by the Codex Committee on Fish and Fishery Products, food additives, contaminants, hygienic practice, and methods of analysis and sampling;

(B) regarding animal health and zoonoses, developed under the auspices of the International Office of Epizootics;

(C) regarding plant health, developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with the North American Plant Protection Organization; or

(D) established by or developed under any other international organization agreed to by the NAFTA countries (as defined in section 3301(4) of this title) or by the WTO members (as defined in section 3501(10) of this title).

(b) Other definitions

The definitions set forth in section 2575b of this title apply for purposes of this part except that in applying paragraph (7) of section 2575b of this title with respect to a sanitary or phytosanitary measure of a foreign country, any reference in such paragraph to the United States shall be deemed to be a reference to that foreign country.

(Pub. L. 96-39, title IV, § 493, as added Pub. L. 103-465, title IV, § 432, Dec. 8, 1994, 108 Stat. 4972.)

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 2581. Auction of import licenses

(a) In general

Notwithstanding any other provision of law, the President may sell import licenses at public auction under such terms and conditions as he deems appropriate. Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

(b) “Import license” defined

For purposes of this section, the term “import license” means any documentation used to administer a quantitative restriction imposed or modified after July 26, 1979 under—

(1) section 125, 203, 301, or 406 of the Trade Act of 1974 (19 U.S.C. 2135, 2253, 2411, or 2436),

(2) the International Emergency Economic Powers Act (50 U.S.C. 1701-1706),

(3) authority under the notes of the Harmonized Tariff Schedule of the United States, but not including any quantitative restriction imposed under section 22 of the Agricultural Adjustment Act of 1934 (7 U.S.C. 624),

(4) the Trading With the Enemy Act (50 U.S.C. App. 1-44),

(5) section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) other than for meat or meat products, or

(6) any Act enacted explicitly for the purpose of implementing an international agree-